

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 593

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEEKEN, BYRD, CROWELL, SHOEMAKER (8), BRUNS, JETTON, SANDER, CRAWFORD, WILSON (119), PARKER, GOODMAN, MUNZLINGER, MOORE (Co-sponsors), PRATT, HOLAND, MORRIS, HOBBS, PEARCE, BEARDEN, SMITH (118), LIPKE, CUNNINGHAM (86), ROARK AND LAGER.

Read 1st time March 4, 2003, and copies ordered printed.

Read 2nd time March 5, 2003, and referred to the Committee on Judiciary March 6, 2003.

Reported from the Committee on Judiciary April 10, 2003, with recommendation that the bill Do Pass with House Committee Amendment No. 1.

Taken up for Perfection April 23, 2003. Bill ordered Perfected and Printed.

STEPHEN S. DAVIS, Chief Clerk

2056L.01P

AN ACT

To repeal sections 33.103 and 287.780, RSMo, and to enact in lieu thereof three new sections relating to the state employees' protection act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 33.103 and 287.780, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 33.103, 287.780 and 537.605, to read as follows:

33.103. 1. Whenever the employees of any state department, division or agency establish
2 any voluntary retirement plan, or participate in any group hospital service plan, group life
3 insurance plan, medical service plan or other such plan, or if they are members of an employee
4 collective bargaining organization, or if they participate in a group plan for uniform rental, the
5 commissioner of administration may deduct from such employees' compensation warrants the
6 amount necessary for each employee's participation in the plan or collective bargaining dues,
7 provided that such dues deductions shall be made only from those individuals agreeing to such
8 deductions. Before such deductions are made, the person in charge of the department, division
9 or agency shall file with the commissioner of administration an authorization showing the names
10 of participating employees, the amount to be deducted from each such employee's compensation,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

11 and the agent authorized to receive the deducted amounts. The amount deducted shall be paid
12 to the authorized agent in the amount of the total deductions by a warrant issued as provided by
13 law. **Receipt of benefits from or participation in a collective bargaining organization shall**
14 **not constitute an authorization for a deduction unless the specific employee personally**
15 **executes a written authorization for such deduction. No state department, official, division,**
16 **or agency shall enter into any agreement that requires any state employee to make a**
17 **contribution, deduction, payment of fair representation fee, or any other payment to a**
18 **collective bargaining organization.**

19 2. The commissioner of administration may, in the same manner, deduct from any state
20 employee's compensation warrant:

21 (1) Any amount authorized by the employee for the purchase of shares in a state
22 employees' credit union in Missouri;

23 (2) Any amount authorized by the employee for contribution to a fund resulting from a
24 united, joint community-wide solicitation or to a fund resulting from a nationwide solicitation
25 by charities rendering services or otherwise fulfilling charitable purposes if the fund is
26 administered in a manner requiring public accountability and public participation in policy
27 decisions;

28 (3) Any amount **specifically and personally** authorized by the employee for the payment
29 of dues in an employee association;

30 (4) Any amount determined to be owed by the employee to the state in accordance with
31 guidelines established by the commissioner of administration which shall include notice to the
32 employee and an appeal process;

33 (5) Any amount voluntarily assigned by the employee for payment of child support
34 obligations determined pursuant to chapter 452 or 454, RSMo; and

35 (6) Any amount authorized by the employee for contributions to any "qualified state
36 tuition program" pursuant to Section 529 of the Internal Revenue Code of 1986, as amended,
37 sponsored by the state of Missouri.

38 3. The commissioner of administration may establish a cafeteria plan in accordance with
39 Section 125 of Title 26 United States Code for state employees. The commissioner of
40 administration must file a written plan document to be filed in accordance with chapter 536,
41 RSMo. Employees must be furnished with a summary plan description one hundred twenty days
42 prior to the effective date of the plan. In connection with such plans, the commissioner may:

43 (1) Include as an option in the plan any employee benefit, otherwise available to state
44 employees, administered by a statutorily created retirement system;

45 (2) Provide and administer, or select companies on the basis of competitive bids or
46 proposals to provide or administer, any group insurance, or other plan which may be included

47 as part of a cafeteria plan, provided such plan is not duplicative of any other plan, otherwise
48 available to state employees, administered by a statutorily created retirement system; and

49 (3) Reduce each participating employee's compensation warrant by the amount necessary
50 for each employee's participation in the cafeteria plan, provided that such salary reduction shall
51 be made only with respect to those individuals agreeing to such reduction. No such reduction
52 in salary for the purpose of participation in a cafeteria plan shall have the effect of reducing the
53 compensation amount used in calculating the state employee's retirement benefit under a
54 statutorily created retirement system or reducing the compensation amount used in calculating
55 the state employee's compensation or wages for purposes of any workers' compensation claim
56 governed by chapter 287, RSMo.

57 4. Employees may authorize deductions as provided in this section in writing or by
58 electronic enrollment.

59 **5. Except for deductions authorized in subdivisions (4) and (5) of subsection 2 of**
60 **this section, no deductions shall be made from any state employee's compensation warrant**
61 **unless ordered by a court of competent jurisdiction, unless specifically authorized in**
62 **writing by such employee, or unless withheld pursuant to federal, state, or local statute,**
63 **regulation, or ordinance relating to taxes, Social Security, railroad retirement, Medicare,**
64 **or Medicaid.**

287.780. No employer or agent, **including the state or any agency, department, or**
2 **division thereof**, shall discharge or in any way discriminate against any employee for exercising
3 any of [his] **the employee's** rights under this chapter. Any employee who has been discharged
4 or discriminated against shall have a civil action for damages against his **or her** employer. **For**
5 **purposes of this section, the state waives its sovereign immunity and submits to suit for**
6 **claims up to the limits established in section 537.610, RSMo.**

537.605. 1. The state of Missouri, in its capacity as an employer, shall be subject
2 **to the provisions of the federal Family and Medical Leave Act, 29 U.S.C. Section 2601, et**
3 **seq., and shall be liable for any violation of such act, and further grants limited consent to**
4 **be sued under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., in the**
5 **state courts of Missouri. The state of Missouri does not consent to be sued under the**
6 **Americans with Disabilities Act in federal courts.**

7 **2. The state of Missouri waives its sovereign immunity for purposes of enforcement**
8 **of such acts; except that no judgment entered against the state of Missouri shall exceed the**
9 **liability limits established in section 537.610. Such monetary limits shall apply regardless**
10 **of whether the state has insurance for defense of the claim. The amount may include**
11 **attorneys' fees, but shall not include punitive or exemplary damages.**

12 **3. The provisions of this section shall apply to all actions pending or initiated on or**

13 **after the effective date of this section.**

14 **4. The provisions of this section pertaining to the Americans with Disabilities Act,**
15 **42 U.S.C. 12101, et seq., shall, without limitation, apply to the Missouri State Capitol**
16 **Building.**